REMARKS

Applicants appreciate the detailed explanation provided by the Examiner in the Advisory Action, and believe the issue is one of claim wording rather than substance. Applicants have attempted to word the claims so that it is clear that the living cells are simply picked out of the tissue surgically (as set forth in original claim 3).

Applicants also appreciate the willingness of the Examiner to enter the amendment filed with the previous response upon filing of a Notice of Appeal. However, no such notice was filed, and so the format of the amended claims assumes that entry was not done.

It is believed that the proposed amendment clarifies the intent of the applicants. As kindly acknowledged by the Examiner in the Advisory Action, the insertion of the term "mechanically" separating one or more living cells that produce a fluorescent protein from cells in the "surrounding tissue" that do not produce it is supported by the specification. The phrase "using surgical procedures" is added by amendment for greater clarity. This is supported by claim 3 as originally filed. Accordingly, no new matter is added to the claims.

If the Office recognizes that the claim, as presently worded, is intended to note that individual cells that produce a fluorescent protein are simply picked out of the tissue leaving behind *any* cells that do not produce this protein, the claims are clearly distinguished from the combination of Hadjantonakis and Trumper. The Examiner has correctly characterized these documents in that Hadjantonakis teaches manual dissection of the tissue, but the dissection does not separate the fluorescent cells from non-fluorescent cells. It is only after enzymatic dissociation and flow-cytometry that this is accomplished in a separate step. Thus, there is no mechanical separation from the tissue of cells that fluoresce from all cells that do not using surgical techniques.

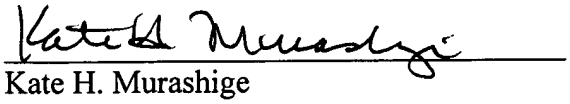
Similarly, Trumper fails to teach mechanical separation of cells that fluoresce from those that do not. The mechanically separated cells contain both fluorescent and non-fluorescent cells. Identification and recovery of fluorescent cells separate from non-fluorescent cells is not accomplished by mechanically separating the fluorescent cells from non-fluorescent cells in the surrounding tissue.

If the Office believes the claim wording is still not clear, any suggestions for rewording of the claims would be greatly appreciated.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 312762004100.

Respectfully submitted,

Dated: September 19, 2006

By: 

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